IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

FRIDAY, THE 14TH DECEMBER 2007 / 23RD AGRAHAYANA 1929

WP(C).No. 34174 of 2007(R)

PETITIONER:

THE GENERAL SECRETARY,
WORKERS CONGRESS, MUNNAR P.O.,
IDUKKI.

BY ADV. SRI.C.ANILKUMAR
SRI.A.K.PREETA

RESPONDENTS:

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1. THE INDUSTRIAL TRIBUNAL,
IDUKKI.

2. THE MANAGER,
PERIAVURRAI ESTATE,
MUNNAR P.O., IDUKKI.

BY GOVERNMENT PLEADER, SRI.A.J.VARGHESE

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J.

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W.P.(C) No. 34174 of 2007(R)

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Dated this the 14th day of December, 2007

JUDGMENT

The petitioner is a union of workmen, which espouses the cause of the workman involved in Industrial Dispute No.94/2001 before the Industrial Tribunal, Idukki. The issue referred for adjudication was:

> "1. Whether the suspension of Shri.S.Yesudas, No.3673 for 4 days from 22-10-1997 to 25-101997 (sic) is justifiable? If not, what reliefs he is entitled to? 2. Whether the dismissal of Shri.S.Yesudas, No.3673 with effect from 24-2-1998 is justifiable? If not, what reliefs he is entitled to?"

2. Two issues were considered by the Industrial Tribunal. One was as to whether the workman involved illegally broken open the lock of and occupied the line unit belonging to the management. Second was whether there was refusal on the part of the workman to handover vacant possession of the line unit occupied by him. Both issues were found in favour of the management by Ext.P1 award in that industrial dispute. On such finding the punishment of four days suspension for the first misconduct and the punishment of dismissal for the second was

upheld by the Tribunal. The union is challenging that award. I have gone through the award. From the same, I find that the tribunal had discussed the evidence in very detail and has given very cogent reasons for arriving at the conclusion it reached. It is not in dispute that the workman is still in possession of the property in question. Even assuming that the issue no.1 is to be decided in favour of the workman, in so far he has not vacated the line building even now, he cannot escape from the consequences arising from the finding on issue no.2. For the above misconducts, especially in view of the recalcitrant attitude of the workman in not vacating the illegal occupation, the punishments imposed cannot be held to be shockingly disproportionate. In fact the suggestion put by the court to vacate the premises as a condition for considering the proportionality of punishment was also not accepted by the workman. In the above circumstances, I do not find any merit in the contentions in the writ petition against Ext.P1 award and accordingly, the writ petition is dismissed.

S.SIRI JAGAN,
JUDGE

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